

STATE OF MICHIGAN
COURT OF APPEALS

In re LUCKETT, Minors.

UNPUBLISHED
November 19, 2013

No. 313038
Wayne Circuit Court
Family Division
LC No. 09-486289-NA

AFTER REMAND

Before: BOONSTRA, P.J., and SAWYER and MURRAY, JJ.

PER CURIAM.

We previously affirmed the order of the trial court holding that there existed at least one statutory ground supporting termination, but remanded for further consideration of the children’s best interests because the lower court initially failed to make best interest findings on the record and did not consider relative placement as required by *In re Mason*, 486 Mich 142; 782 NW2d 747 (2010), and *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d (2012).¹ A hearing was subsequently held before a referee on September 20, 2013, who made findings of fact and conclusions of law that the trial court thereafter adopted. Based on these findings of facts and conclusions of law, we affirm the termination of parental rights.

We review the trial court’s termination decision for clear error. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

“In deciding whether termination is in the child’s best interests, the court may consider the child’s bond to the parent, the parent’s parenting ability, the child’s need for permanency, stability, and finality, and the advantages of a foster home over the parent’s home.” *Olive/Metts*, 297 Mich App at 42 (citations omitted). Although MCL 712.19a(7) permits the trial court to create a juvenile guardianship in lieu of termination, it does not require the trial court to do so. The trial court may terminate parental rights notwithstanding a juvenile guardianship if it makes the appropriate best interest determination. See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004).

¹ *In re Lockett*, unpublished opinion per curiam of the Court of Appeals, issued August 13, 2013 (Docket No. 313038).

Here, the referee considered the factors articulated in *Olive/Metts*, 297 Mich App at 42 (citations omitted), and explicitly considered the children's current placement with relatives. The referee noted that, since the children were removed, respondent had failed to complete and benefit from parenting classes, to maintain suitable housing, to provide proof of a legal source of income, to maintain contact with the foster care agency, and to attend parenting time. The referee further found that there is no significant bond between respondent and any of his children, due to respondent's failure to regularly visit his children. Regarding relative placement, the referee noted that AL and DL were placed with relatives, but that respondent's failure to visit, maintain housing, prove his income, or otherwise comply with his parent-agency service plan mandated termination. Finally, the referee noted the children's need for stability and permanency. The trial court adopted these findings and determined that termination was in the child's best interests. The court was therefore required to terminate respondent's parental rights and cease efforts at reunification. *Id.*, citing MCL 712A.19b(5) and MCR 3.977(E)(4). We find no error in the trial court's termination of parental rights.

Affirmed.

/s/ Mark T. Boonstra

/s/ David H. Sawyer

/s/ Christopher M. Murray